

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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SECURITIES AND EXCHANGE COMMISSION,	:	
	:	
Plaintiff,	:	
	:	
v.	:	No. 1:10-cv-5760-SAS
	:	
SAMUEL WYLY, DONALD R. MILLER, JR., in his Capacity as the Independent Executor of the Will and Estate of Charles J. Wyly, Jr., MICHAEL C. FRENCH, AND LOUIS J. SCHAUFELE III,	:	ECF Case
	:	
Defendants.	:	

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**NOTICE OF MOTION  
TO PRECLUDE THE SEC'S "TOTAL PROFITS" THEORY OF DISGORGEMENT**

PLEASE TAKE NOTICE that, for the reasons set forth in the accompanying memorandum of law, Defendants Samuel Wyly and Donald R. Miller, in his Capacity as the Independent Executor of the Will and Estate of Charles J. Wyly, Jr., respectfully move this Court, before the Honorable Shira A. Scheindlin, District Judge, Daniel Patrick Moynihan United States Courthouse for the Southern District of New York, 500 Pearl Street, Courtroom 15C, New York, New York 10007-1312, to issue an order precluding the SEC from offering its “total profits” theory of disgorgement at the remedies trial of this matter, as well as to issue any other relief the Court deems just and proper.

Respectfully submitted:

SUSMAN GODFREY, L.L.P

By:

//Steven M. Shepard//

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Dated: July 2, 2014